SINGLE BENCH

03

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

WRIT PETITION.NO.4541 OF 2005

BETWEEN

Santosh Singh S/o Late Shri Kaushal Singh , aged about 41 years, occupation Assistant Teacher , posted at Govt. Girls Poorva Madhyamik Shala, Nariyara , resident of Village Sonsari , Block Akaltara , Tahsil and District Janjgir Champa, (CG).

PETITIONER

RECEIPT-COPY 7-9-05 CLERK U. A. G. BILASPUR

AND

1. The State of Chhattisgarh,
   Through the Secretary Department of School Education, Mantralay, Chhattisgarh, D.K.S. Building, Raipur (C.G.)

2. The Director, Public Instructions, Raipur, Tahsil and District Raipur (CG).

3. The District Education Officer,
   Janjgir Champa, District Janjgir Champa (CG).

4. The Block Education Officer, Akaltara, District Janjgir Champa.

5. The Head Master, Govt. Girls Poorva Madhyamik Shala, Nariyara, District Janjgir Champa (CG).

P.R. No. 4615/05 Presented by Shri B.P. Kashyap dated 7/9/05

RESPONDENTS

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA

(36)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP 4541/05 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

07/10/2005

Smt. Mala Dubey, learned counsel for the petitioner.

Shri Bhaskar Pyasi, Panel Lawyer for the State.

Heard.

The petitioner, who is working as an Assistant Teacher and posted at Govt. Girls Poorva Madhyamik Shala, Nariyara, and has been transferred from Nariyara to High School, Barpali, has challenged the legality of his transfer order dated 31/8/2005.

No grounds of malafides etc. have been raised in this writ petition. The only ground raised is that the transfer is a mid-session transfer which may affect the studies of the children of the petitioner.

The Apex Court while dealing with the matter of ***Kendriya Vidyalaya Sangathan -V- Damodar Prasad Pandey, 2004 AIR SCW 5563*** referring to the various decisions has observed vide para 4 as follows:

> "Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by malafide or infraction of any prescribed norms of principles governing the transfer (See ***Ambani Kanta Ray Vs. State of Orrissa).*** Unless the order of transfer is vitiated by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it. (See ***Union of India Vs. S.L. Abbas).*** Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In ***Union of Inida & others Vs. Janardan Debanath & another,*** it was observed as follows:

(37)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक .....WP...4541/07..... **सन् 200**

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"No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of *mala-fide* exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in *National Hydroelectric Power Corpn. Ltd. Vs. Shri Bhagwan.*"

In the facts and circumstances of the case, I am not inclined to interfere in this transfer order.

The petition has no merit, the same is dismissed.

Sd/-
Sunil Kumar Sinha
Judge